

IN THE HIGH COURT OF KARNATAKA AT BANGALORE
DATED THIS THE 4TH DAY OF JUNE 1998

BEFORE

THE HON'BLE MR.JUSTICE G.PATRI BASAVANA GOUD

WRIT PETITION NUMBER 23828 OF 1990

Between:

M/s Karnataka State Road
Transport Corporation
K.H.Road
Bangalore 560 027
by its Managing Director

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...Petitioner

(By Sri Ram Mohan Reddy, Advocate)

And:

1. The Presiding Officer
Labour Court
Gandhinagar
Bangalore 560 009

2. K. A. Ramechandra Reddy
son of K. K. Subba Reddy
Reddyvare Palli,
Coorgapalli Post
Srinivasapura Taluk
Kolar District.

...Respondents

(By Sri M. R. Shanthakumari, HCGP for R-1;
Sri T. Narayanaswamy, Adv. for R-2)

This writ petition is filed under Articles 226 and 227 of the Constitution seeking to quash the award dated 21-4-1990 passed by the first respondent in Ref.No.40 of 1987 at Annexure-B.

This writ petition coming on for hearing this day, the Court made the following:

O R D E R

The petitioner KSRTC, in this writ petition under Articles 226 and 227 of the Constitution,

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seeks quashing of the award of the Labour Court, Bangalore dated 21-4-1990 at Annexure-B, by which the conductor in the petitioner KSRTC was directed to be reinstated in service with 50 per cent of back wages, continuity of service and consequential benefits.

2. On proof of misconduct in a domestic enquiry, the 2nd respondent was dismissed from service. He raised an industrial dispute in that regard that came to be referred to the Labour Court, Bangalore under Section 10(1)(c) of the Industrial Disputes Act, 1947 ('Act' for short). Second respondent conceded before the Labour Court with regard to fairness of the domestic enquiry. Documents were marked by consent at Exhibits M-1 to M-16. There were two charges against the second respondent, One was that he had not issued one ticket of 60 paise denomination to a passenger nor had he collected fare from the said passenger, and the other was that the second respondent had failed to comply with issue and start rule. Labour Court has found that the Disciplinary Authority has rightly held this charge as proved and that there is no perversity

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in this regard. It is only with regard to the other charge that the Labour Court has held that the finding of the disciplinary authority that this charge is proved, is perverse. ^{According to the} Labour Court, this charge is not proved. The charge was that the second respondent had re-issued 24 tickets in the third trip after collecting the said tickets from the passengers of the first trip. One of the checking staff, namely Muddalingaiah, Traffic Inspector, gives evidence in this regard during the domestic enquiry. It is true, there were entries in respect of these two tickets in the waybill, both with regard to first trip as also with regard to the third trip. There is ~~an~~ evidence of Muddalingaiah to the effect that these tickets had been re-issued after collecting them back from the passengers of the first trip. Sri Venkatesh for the petitioner, on this basis, strenuously urges that nothing more was needed to conclude that the charge of re-issue of 24 tickets has stood proved. Sri Narayanaswamy for the second respondent workman points out that, as observed by the Labour Court itself, the aspect of re-issue was an assumption on the part of the

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Traffic Inspector Muddalingaiah and that, on the admission of Muddalingaiah himself, all the passengers had alighted and there was no occasion for him to ascertain as a fact as to whether it was a case of re-issuing at all. Sri Narayanaswamy urges that it was only a mistaken entry by repeating the entry already made in respect of the first trip in the waybill in the third trip also. Sri Venkatesh for the petitioner however points out that not all 24 passengers had alighted when the bus was checked but that 11 passengers were still present there.

3. So far as passengers are concerned, it is no doubt true that the presence of 11 passengers at the time the bus was checked is spoken to by one of the checking staff. But reference to this presence of 11 persons is preceded by the statement that all passengers concerned, who are re-issued with tickets, had ~~to~~ alighted *ed*. It would only show that these 11 passengers did not relate to the alleged re-issue of tickets. The checking staff, therefore, could only assume that the tickets had been re-issued on the basis of double entry made in the waybill. That such entry could be a result of mistake appears to be

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more probable because, if the second respondent had re-issued tickets in the first trip and had made entry in the waybill, and if he had collected the said tickets from certain passengers and had re-issued them in the third trip, he would not commit mistake of making entry in that regard once again in the third trip so as to completely tie his hands with regard to charge of re-issue of tickets. The fact that there is a double entry would probablise the version that it is a mistaken entry rather than an entry relating to re-issue of tickets. The finding of the Labour Court that this charge did not ^{stand} proved, therefore cannot be called perverse. With regard to non-issue of a ticket to one person from whom fare had not admittedly been collected, punishment of dismissal from service was disproportionate and the Labour Court has substituted a lesser punishment of denial of 50 per cent of back wages.

4. There is no infirmity in the impugned award. Writ Petition dismissed.



Sd/-
JUDGE